

2008

# State of Utah v. Edgar Tiedemann : Brief of Appellee

Utah Court of Appeals

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Case No. 20080471-CA

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IN THE  
UTAH COURT OF APPEALS

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STATE OF UTAH,  
Plaintiff/Appellee,

vs.

EDGAR TIEDEMANN,  
Defendant/Appellant.

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Brief of Appellee

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Appeal from convictions for two counts of murder and one count  
of attempted murder in the Third Judicial District Court of Utah,  
Salt Lake County, the Honorable Judith S.H. Atherton presiding.

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Oral Argument Requested

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Case No. 20080471-CA

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IN THE  
UTAH COURT OF APPEALS

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STATE OF UTAH,  
Plaintiff/Appellee,

vs.

EDGAR TIEDEMANN,  
Defendant/Appellant.

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Brief of Appellee

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**STATEMENT OF JURISDICTION**

Defendant appeals from convictions for two counts of murder, both first degree felonies, in violation of Utah Code Ann. § 76-5-203 (Supp. 1991), and one count of attempted murder, a second degree felony, in violation of Utah Code Ann. § 76-4-101 (1990) and Utah Code Ann. § 76-5-203 (Supp. 1991). This Court has jurisdiction under Utah Code Ann. § 78A-4-103(2)(j) (West Supp. 2008).

**STATEMENT OF THE ISSUES**

1. Is reversal of Defendant's convictions warranted for the trial court's refusal to remove for cause Prospective Juror No. 19, where she was later removed with one of Defendant's peremptory challenges and Defendant passed the petit jury for cause?

*Standard of Review.* This Court reviews for an abuse of discretion a trial court's determination of whether to excuse a prospective juror for cause. *State v. Wach*, 2001 UT 35, ¶ 25, 24 P.3d 948.

2. Were spontaneous, un-*Mirandized* statements made by Defendant following his arrest the result of custodial interrogation, in violation of *Miranda v. Arizona*, 384 U.S. 436 (1966)?

*Standard of Review.* This Court reviews for correctness a trial court's determination of whether a defendant's statements to police were the product of custodial interrogation. *See State v. Levin*, 2006 UT 50, ¶ 16, 144 P.3d 1096.

## CONSTITUTIONAL PROVISIONS, STATUTES, AND RULES

The following constitutional provisions and rules are relevant to a determination of the issues in this case and are reproduced in Addendum A: U.S. Const. amend. V; U.S. Const. amend. VI; Utah R. Crim. P. 18.

## STATEMENT OF THE CASE

*Filing and Dismissal of Original Charges.* On November 5, 1991, the State charged Defendant with two counts of aggravated murder for the shooting deaths of Susan Sessions and Charles Timberman, one count of attempted aggravated murder for the shooting of Scott Bunnell, one count of aggravated sexual assault, and one count of aggravated kidnapping. R. 526-27. The charges



were dismissed seven months later, after Defendant was deemed incompetent to stand trial. R. 528-29. Based on the competency evaluations, the State did not anticipate that the charges would ever be refiled. R. 517-63. Sometime thereafter, Defendant was civilly committed to the Utah State Hospital. R. 636: 18; *see also* R. 555-56. A doctor at the State Hospital opined that Defendant would never become competent or be able to assist in his defense. R. 636: 15.

*Destruction of Evidence.* In April 1994, the evidence custodian notified the investigating officer that physical evidence taken in the case would be destroyed unless an objection was made within 30 days. Supplemental Record in manila envelope dated 12/12/05 (Supp. Rec.). No objection was made and much, but not all, of the evidence in the case was destroyed. Supp. Rec. The destroyed evidence included the .38 and .22 caliber revolvers seized from Defendant, shell casings, bullets and bullet fragments, a Code R kit, a blood specimen, hair and saliva samples, a bone fragment found on one victim's bed, a bottle of green liquid, a one gallon can of Toluene, heroin, an audiotape, and gunshot residue from Defendant and one of the victims. Supp. Rec.

*Refiling of Charges.* In October 2002, the prosecutor's office was notified that Defendant was about to be released from civil commitment because he was "no longer psychotic." R. 562-63. The following month, the State charged Defendant with three counts of murder for the deaths of Susan Sessions, Charles

Timberman, and Scott Bunnell, who died the previous year — more than nine years after he was shot. R. 1-5; R. 971: 39-40. However, the State subsequently filed an amended information, charging Defendant with the murder of Sessions and Timberman, but only the attempted murder of Bunnell. R. 867-69, 880-82. After competency evaluations in 2003 and 2004, Defendant was deemed competent to stand trial. *See* R. 63, 98, 139, 243-44.

*Motion to Suppress and Motion to Dismiss.* Defendant moved to suppress his confession to police during a taped interview at the police station, claiming that the confession was given in violation of *Miranda v. Arizona*, 384 U.S. 436 (1966), and that it was otherwise involuntary. R. 337-58. The district court denied the motion. R. 585-95. Defendant also moved to dismiss the charges against him, claiming that the destruction of evidence in 1994 was a violation of his due process rights under the federal and state constitutions. R. 388-404. The district court also denied that motion. R. 599-607. The Utah Supreme Court agreed to address the two rulings on interlocutory appeal, and affirmed in part and reversed in part. *See State v. Tiedemann*, 2007 UT 49, 162 P.3d 1106.

Addressing the *Miranda* ruling, the Court held that after initially waiving his *Miranda* rights at the police station, Defendant subsequently invoked his right to remain silent as to questions about Suzie Sessions, but not as to “questions that were not specifically about Suzie and could have been answered

as to the other victims without reference to Suzie.” *Tiedemann*, 2007 UT 49, ¶¶ 16-19, 53, 55. Addressing the denial of the motion to dismiss, the Court held that although the State did not destroy the evidence in bad faith, dismissal of the charges may still be required under state due process, depending on “the degree of prejudice to the defendant in light of the materiality and importance of the missing evidence in the context of the case as a whole.” *Id.* at ¶¶ 39-46.

On remand, the district court reviewed the taped interview of Defendant and ordered the redaction of those segments where Defendant responded to questions specifically about Suzie Sessions. *See* R. 782; R. 974: 10-11. The district court also revisited Defendant’s motion to dismiss based on the destruction of evidence, applying the state due process analysis set forth by the Utah Supreme Court. R. 783-94. The district court concluded that dismissal of the charges was not appropriate, because there was not “a reasonable probability that the lost evidence was exculpatory” and because “the degree of prejudice suffered by defendant [was] not so great as to require dismissal.” R. 783-94.

*Second Motion to Suppress.* A few weeks before trial, Defendant filed a second motion to suppress based on *Miranda*, this time seeking suppression of statements he made to police immediately after his apprehension. R. 337-58. The trial court granted the motion as to “any statements made in response to

questions” posed by the arresting officers, but not as to any “spontaneous statements” made by Defendant. R. 865-66; R. 966: 30.

*Jury Selection.* On February 25, 2008, the trial began with the selection of the jury. *See* R. 970. The defense challenged Prospective Juror No. 19, Annick English, for cause, arguing that due process required her removal because as a former transportation officer for the sheriff’s office, she would be aware that Defendant was in custody. *See* R. 970: 32-33. The district court denied the challenge. R. 970: 34. Defendant thereafter removed English with a peremptory challenge. *See* Jury Lists, Pleadings File, V.3 (not paginated) (Addendum B). After both parties exercised their peremptory challenges, Defendant passed the jury for cause. R. 970: 46.

*Trial, Conviction, and Appeal.* The State called thirteen witnesses over the next two days of trial. *See* R. 969, 971. On the fourth day of trial, Defendant testified and the case was presented to the jury for deliberations. R. 972. The jury returned guilty verdicts on all counts as charged in the amended information. R. 879, 888-91, 895-96; R. 897-99. On May 2, 2008, Defendant was sentenced to consecutive prison terms of five years-to-life for the two murder convictions and one-to-fifteen years for the attempted murder conviction. R. 937-39. He timely appealed to the Utah Supreme Court and that court transferred the case to this Court. R. 947-48, 961-62.

## STATEMENT OF FACTS

On November 2, 1991, Susan ("Suzie") Sessions and Charles ("Chuck") Timberman were murdered in the trailer home of Defendant—a longtime friend of Suzie's family. R. 969: 31, 99-101, 162-63, 177; R. 971: 62-63. Suzie "died as a result of a gunshot wound to the head." SE17; R. 971: 21-26. Chuck was shot three times and "died as a result of a gunshot wound to the chest." SE18; R. 971: 27-32, 36. Suzie's 14-year-old son, Scott ("Scotty") Bunnell, Jr., was also shot, but did not die. R. 969: 98-99, 161-62; R. 971: 41-43. However, one of the bullets pierced his spinal cord, paralyzing him below his arms. R. 969: 163, 165; R. 971: 41-43.<sup>1</sup> Deborah ("Debbie") Pryor, who was Suzie's sister and Chuck's common law wife, was also in Defendant's trailer home at the time of the murders, but was not shot.<sup>2</sup> R. 969: 29. She was seven and a half months pregnant. R. 969: 30.

\* \* \*

On Friday, November 1, 1991, Defendant invited Debbie, Chuck, Suzie, and Scotty to stay with him over the weekend during the family's transition in a move to Salt Lake City. R. 969: 29. They moved in that day and ate dinner with Defendant that evening. R. 969: 32-34. After eating dinner, Defendant went to

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<sup>1</sup> Scotty died nine years after the shootings and seven years before the trial, and thus did not testify at trial. R. 971: 39-41.

<sup>2</sup> Pryor was Debbie's new, married name at the time of trial; she went by Sutherland or Cole at the time of the shooting. R. 969: 27.

his bedroom and sniffed paint thinner. R. 969: 34-35, 94. The family watched television until a little after midnight. R. 969: 34, 71. Debbie and Chuck went to bed in one of the bedrooms. R. 969: 35-36. Suzie slept on a couch in the front room and her son Scotty slept below her on some cushions that had been placed on the floor. R. 969: 35-36.

Just as Debbie and Chuck began falling asleep, they heard a loud gunshot from the front room. R. 969: 37, 55, 72. When Chuck arose from the bed, Defendant slid open the bedroom door and fired two shots into Chuck. R. 969: 37-38. Chuck fell back into the bed and said he could not move. R. 969: 39. Defendant went back into the front room, fired two more shots, and returned to the bedroom. R. 969: 39. He turned on the light and fired another two rounds into Chuck. R. 969: 39-40. Chuck put his arm over Debbie and told her to play dead. R. 969: 40. Defendant then returned to the front room and fired two more shots. R. 969: 40. As Debbie lay there, Chuck died. R. 969: 40-41. Debbie moved his arm from on top of her and remained under the covers. R. 969: 40-41. Over the next several hours, Defendant walked back and forth between the front room and the bedroom at least seven times, turning the bedroom light on and off. R. 969: 41, 73.

As daylight approached, Debbie heard Scotty complain that he could not move and plead with Defendant not to shoot him. R. 969: 42. Scotty asked

Defendant if he had shot his Aunt Debbie. R. 969: 42. Defendant told him that his mother and Debbie were both all right, but that "Chuck is dead as a door nail." R. 969: 42. A few seconds later, however, Defendant told Scotty that his mother was dead too. R. 969: 42. At daybreak, Defendant entered the bedroom and told Debbie to get up. R. 969: 43, 72. Hoping that he would think she was dead, Debbie did not move. R. 969: 43. But after Defendant told her that she would be dead if she did not get up, she pulled the covers off of her and asked Defendant to lower his gun. R. 969: 43-44.

After Debbie put on a robe, she walked out to the front room with Defendant. R. 969: 44-45. She saw Scotty lying on the floor bleeding. R. 969: 46. Scotty told Debbie that he had been shot three times and that he was paralyzed. R. 969: 46-47. Defendant pulled a blanket off of Debbie's sister Suzie and said, "Ain't she pretty now?" R. 969: 51. Suzie was dead, with a gunshot wound to the eye. R. 969: 51. In the next several hours, Defendant sniffed paint thinner from a one-gallon glass jar and intermittently threatened Debbie with the gun. R. 969: 48-50, 53, 94. At one point, Debbie put her hand over the gun and Defendant pulled out a second gun from his left pocket. R. 969: 53-54. Scotty asked Defendant why he shot his mother. R. 969: 67. Defendant said he shot her because she did not love him and complained that she did not kiss him good

night. R. 969: 67. Defendant said that he spared Debbie's life because she was pregnant and she had never done anything to him. R. 969: 68.

Sometime later that morning, Defendant and Debbie left the trailer because Defendant wanted cocaine and Debbie told him she knew where to get some. R. 969: 55-57, 76-77, 80. Debbie drove Defendant to a 7-Eleven, where the two exited the car and Debbie feigned a telephone call for a drug buy. R. 969: 57-59, 80-81, 83. They then drove to Del Taco, where they purchased two drinks at the drive-through. R. 969: 60, 82-83. From there, Debbie drove to a gas station near the home of Tony Hart, Suzie's friend and drug supplier. R. 969: 61-62, 83, 109, 116. This time, Defendant remained in the car while Debbie went to a phone booth to purportedly finalize a drug buy. R. 969: 61-62, 82-84. She telephoned Tony, but his wife Pat answered. R. 969: 61. Debbie tried to explain to Pat what had happened, but because Debbie was so "panicky," Pat had a difficult time understanding her. R. 969: 61-62, 109-10.

After Tony and Pat agreed to let Debbie come over, she returned to the car where Defendant was waiting and told him that she could get the drugs, but needed to go alone. R. 969: 62, 85-86, 109-10. Defendant agreed to wait for her at the gas station. R. 969: 62-63. Before she left, however, Defendant took both guns and told her that "he's got a gun loaded," that "the bullets have [her] name on" them, and that if she told anyone, he would "empty the gun" on her. R. 969:



63, 86. Debbie left in the car and drove around the block to Tony's house. R. 969: 63, 86.

Debbie's car squealed as it rounded the corner approaching the Hart residence and she parked the car over the sidewalk, almost hitting the fence. R. 969: 110-11, 113. She jumped out of the car, leaving the car door open, pounded on the front door of the house, but then opened it and came running in. R. 969: 111, 113, 119. Debbie was so frantic and scared that it also frightened Pat Hart. R. 969: 111. Debbie screamed for Pat to call 9-1-1 and tried to recount what had happened, pacing back and forth and fretting that Defendant was going to come after her. R. 969: 63-65, 94, 111, 114. After Pat called 9-1-1, she handed the phone to Debbie. R. 969: 111-12. While Debbie was still on the telephone with 9-1-1, police officers arrived. R. 969: 111-12, 120. "[H]ysterical" and "almost out of control," Debbie told the first responding officer that Defendant had killed three people and said that he was still up the street at the gas station. R. 969: 65-66, 88, 128, 145, 155.

The officer placed Debbie in the backseat of his patrol car and the three responding officers then drove toward the gas station where Debbie had left Defendant. R. 969: 66, 133, 145-46. When Debbie saw Defendant walking on the sidewalk towards them, "she began frantically screaming, [']That's him. That's him. . . . Don't let him kill me,[']" and "duck[ed] down in the back seat of the car

. . . totally distraught.” R. 969: 146; *accord* R. 969: 66, 128-29, 133-34. The officers stopped, and with weapons drawn, ordered Defendant to stop and take his hands out of his coat pockets. R. 969: 139, 146; *accord* R. 969: 66, 129, 134-35. When Defendant removed his left hand, he was holding a .38 caliber revolver. R. 969: 130, 147. Officers immediately yelled at him to put the gun down. R. 969: 66, 147. Almost simultaneously, Defendant removed his right hand, holding a .22 caliber pistol, and placed both guns on the ground. R. 969: 66, 129-30, 132, 134, 147-48. The officers handcuffed Defendant, placed him in a patrol car, and transported him to the jail. R. 969: 66-67, 148.

When police escorted Defendant to the patrol car following his arrest, Defendant said that he shot the victims “because they had burned him on a drug buy of \$6,000. He also stated that he’d been sniffing glue since he was a young boy.” R. 969: 148. He told the officer who transported him to the jail that he had a .22 in one hand and a .38 in the other hand. R. 969: 138. Ballistics tests on bullets and shell casings recovered at the scene confirmed that they were fired from the .22 and .38 caliber revolvers seized from Defendant. R. 971: 47, 54-57, 65-66; SE22, SE23.

Police and emergency medical personnel arrived at Defendant’s trailer at approximately 11:30 a.m. R. 969: 97. They heard Scotty calling out from inside, and upon learning he was paralyzed, kicked in the door. R. 969: 98, 176-77.

When the paramedic treating Scotty asked what happened, Scotty told him that Defendant had shot him. R. 969: 164, 178.

*Defendant's Interview at the Police Station*

At the police station, Defendant was interviewed by Detective Ron Edwards. R. 971: 66-67.<sup>3</sup> Detective Edwards advised Defendant of his *Miranda* rights; Defendant acknowledged that he understood them and agreed to waive those rights and speak with police. R. 971: 67-76; SE16: 1.

When Detective Edwards asked who shot the people at the trailer, Defendant said, "Me." SE16: 2. He explained that he "shot Suzie cause I love her and I shot the other two." SE16: 2; *see also* SE16: 9. He said he shot Chuck "[j]ust to cover up the murder." SE16: 2. He said that he was going to shoot Debbie as well, but did not because "she was pregnant." SE16: 2. He told Detective Edwards that he shot Chuck with the .38 caliber revolver and that he shot Scotty twice with the .22 and twice with the .38. SE16: 3-4, 7-8. He said that he shot Suzie first, then Chuck, and then Scotty. SE16: 4, 6-7. He said that after

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<sup>3</sup> The recorded portions of Defendant's interview that were admitted by the trial court following the interlocutory appeal were included in a DVD introduced as State's Exhibit 16 (SE16). *See* R. 971: 105, 111. The DVD is divided into twelve segments, numbered 1-11, and 13. Citations to the DVD will thus refer to the exhibit, followed by a colon, followed by the segment number, e.g., SE16: 1. As a convenience to the Court, the State has included in Addendum C the redacted transcript of the interview, R. 782. That transcript, however, was not introduced at trial.

the shootings, he talked with Debbie for two or three hours and then left with her because he wanted cocaine. SE16: 9-10.

During the interview, Defendant acknowledged that he was intoxicated on paint thinner, and also that he had mental problems. SE16: 1, 5. He explained that he “think[s]” he’s Adolph Hitler because Hitler died in May of 1945 and he was born in October of 1946. SE16: 5. When asked if he was hearing any voices, Defendant said, “I think so. I don’t know.” SE16: 7. Detective Edwards then asked Defendant who it was that told him to shoot the victims. SE16: 7. Defendant said, “The devil.” SE16: 7. Despite these statements, Defendant was able to provide Detective Edwards with the make, model, and year of his car, his license plate number, and his telephone number. SE16: 4, 9.

## SUMMARY OF ARGUMENT

*Refusal to Remove Prospective Juror No. 19.* Defendant argues that he was prejudiced by the trial court’s refusal to remove Prospective Juror No. 19 for cause. However, he removed that prospective juror with a peremptory challenge and passed the petit jury for cause. Accordingly, he has failed to demonstrate prejudice as required under *State v. Menzies*, 889 P.2d 393 (Utah 1994), *cert. denied*, 513 U.S. 1115 (1995), and its progeny. In any event, the prospective juror’s experience as a former transportation officer for the sheriff’s

office did not render her partial, such that she should have been removed for cause.

*Post-arrest Statements.* Defendant argues that the trial court erred in admitting two un-*Mirandized* statements he made to arresting officers. Even if the trial court erred, admission of the statements was harmless beyond a reasonable doubt. Debbie Pryor testified that she saw Defendant fatally shoot Chuck, heard the gunshots in the front room, and heard Defendant tell Scotty that he shot Suzie because she did not love him. Scotty Bunnell told the paramedic treating him that Defendant had shot him. Defendant was apprehended carrying a .38 caliber revolver and a .22 caliber revolver. Ballistics tests on bullets and shell casings recovered at the scene confirmed that they were fired from the two revolvers seized from Defendant when he was arrested. And finally, the State introduced Defendant's *Mirandized* confession to police, where he admitted to killing Suzie because he loved her, admitted to killing Chuck, admitted to shooting Scotty, admitted to using .38 and .22 caliber revolvers, and admitted to sniffing paint thinner. Given the foregoing evidence, it cannot be said that Defendant's two statements to officers following his arrest contributed in any manner to his convictions.

## ARGUMENT

### I.

**ANY ERROR IN NOT REMOVING PROSPECTIVE JUROR NO. 19 FOR CAUSE, IF ANY, WAS HARMLESS, BECAUSE SHE WAS REMOVED WITH ONE OF DEFENDANT'S PEREMPTORY CHALLENGES AND DEFENDANT HAS NOT SHOWN THAT A BIASED JUROR SAT**

Defendant argues that the trial court abused its discretion in refusing to remove for cause Prospective Juror No. 19, Annick English. Aplt. Brf. at 13-20. Even though he later removed English with one of his peremptory challenges and passed the petit jury for cause, Defendant claims that he was prejudiced by the refusal to grant the for-cause challenge because it “denied [to him] a substantial right in that he was not allowed the same number of peremptory strikes to use on prospective jurors as the prosecutor.” Aplt. Brf. at 9, 21-28. Defendant’s claim fails under *State v. Menzies*, 889 P.2d 393 (Utah 1994), *cert. denied*, 513 U.S. 1115 (1995), and its progeny.

\* \* \*

English and her husband were both retired from the sheriff’s office, though her husband still worked there part-time. *See* R. 970: 28; JQ19 at 3. In response to inquiry at voir dire, English disclosed that during her 20-year career, she “worked in the jail,” she “worked as a transportation officer” in the old court building, and she worked as “the court liaison officer” from about 1989

until she retired in 1995. R. 970: 28-30. She explained that as a transportation officer, she “guard[ed] the inmates in the holding cell, . . . transport[ed] them to and from . . . the underground,” and “sat in on the court hearings.” R. 970: 29. She affirmed that as a transportation officer, she was “aware of [courtroom] policies and procedures.” R. 970: 29. English indicated that she “only sat in on a couple of trials,” none of which were “high-profile ones.” R. 970: 29.

Counsel for Defendant asked Ms. English whether her and her husband’s employment would influence the way she would evaluate the evidence. R. 970: 28. She said that it might, but in the sense that she “wouldn’t be in awe of it as much as [she] would if [she] would have been a civilian.” R. 970: 28-29. When asked if she would be able to evaluate the evidence fairly and make a determination based solely on the evidence, English indicated that she “would be able to evaluate it more clearly.” R. 970: 29.

Defense counsel challenged English for cause, alleging that because of her knowledge of transportation procedures, she would know that Defendant was in custody. R. 970: 32-33. Counsel argued that “due process requires that no one know the defendant is in custody. R. 970: 32-33. Counsel represented that nothing else raised during voir dire created a for-cause concern. R. 970: 32 (“The other stuff, I don’t see as an issue. But the transport and the fact that he will be being transported.”). The district court denied Defendant’s for-cause challenge.

R. 970: 34. Ms. English did not, however, sit on the petit jury; Defendant removed her with his first peremptory challenge. *See* Jury Lists, Pleadings File, V. 3. Defendant later passed the jury for cause. R. 970: 46.

**A. Under *State v. Menzies* and its progeny, an erroneous refusal to strike a prospective juror for cause will result in prejudice only upon a showing that a seated juror was partial or incompetent.**

Defendant contends that he “was deprived of the full number of peremptory strikes because he was forced to use a [peremptory] strike [on English] to cure trial court error, while the State was not required to use a peremptory strike in that fashion, but was free to shape the jury to its advantage.” Aplt. Brf. at 23-24 (citation to record omitted). Defendant claims that such an “uneven allocation” of peremptory strikes resulted in a “substantial deprivation” of his rights by “prevent[ing] him from using the strike on other jurors” that may have been “more sympathetic” to the victim. Aplt. Brf. at 23-25. Defendant’s claim lacks merit.

Without expressly so stating, Defendant asks this Court to adopt the automatic reversal rule of *Crawford v. Manning*, 542 P.2d 1091 (Utah 1975), and its progeny, which required reversal “whenever a party is compelled ‘to exercise a peremptory challenge to remove a panel member who should have been stricken for cause.’” *Menzies*, 889 P.2d at 397-98 (quoting *State v. Bishop*, 753 P.2d 439, 451 (Utah 1988)). But in *State v. Menzies*, the Utah Supreme Court



“reject[ed] the notion that the loss of a peremptory challenge [in this manner] constitutes a violation of the constitutional right to an impartial jury” or is otherwise prejudicial. *Id.* at 398 (quoting *Ross v. Oklahoma*, 487 U.S. 81, 88 (1988)). The Court held that “[t]o prevail on a claim of error based on the failure to remove a juror for cause, a defendant must demonstrate prejudice, *viz.*, show that a member of the jury was partial or incompetent.” *Id.*<sup>4</sup>

As the Utah Supreme Court later explained, “[n]either the United States Constitution nor the Utah Constitution provides a right to a certain number of peremptory challenges, or indeed to any at all.” *State v. Baker*, 935 P.2d 503, 505 (Utah 1997). The rules of criminal procedure allow peremptory challenges. *See* Utah R. Crim. P. 18. Although no reason need be given for exercising peremptory challenges, Utah R. Crim. P. 18(d), *Baker* held that they are “designed to facilitate the seating of a jury that will listen without bias to the evidence and do justice to both parties.” *Id.* In other words, the peremptory challenge is a “tool designed to foster *an impartial jury*,” not a more favorable jury. *Menzies*, 889 P.2d at 505-06 (emphasis added). It is, in essence, a second line of defense against the seating of a biased juror. *See id.* at 507 (“Both parties

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<sup>4</sup> Until *Crawford*, this approach had been followed in Utah dating back to territorial times, *see People v. Hopt*, 4 Utah 247, 9 P. 407 (1886), *aff’d*, 120 U.S. 430 (1887), and is now “utilized by a majority of the states and upheld by the federal courts.” *Menzies*, 889 P.2d at 398.

and the court share a duty to help ensure a *fair trial*—a trial in which a jury impartially weighs the evidence”).

In summary, in cases seeking reversal for a trial court’s erroneous denial of a for-cause challenge, the proper focus is not on the challenged juror who was later removed with a peremptory strike, “but on the jury ultimately seated.” *State v. Wach*, 2001 UT 35, ¶ 36, 24 P.3d 948. Unless the defendant can “show that a member of the jury was partial or incompetent,” there is no harm. *Menzies*, 889 P.2d at 398.

**B. Defendant has not demonstrated that a member of the jury was partial or incompetent.**

In this case, Ms. English did not sit on the jury that convicted Defendant. See Jury Lists, Pleadings File, V.3. As in *Menzies*, she was removed with a peremptory challenge. See *id.* To prevail, therefore, Defendant must “show that as a result of the loss of his peremptory challenge he was not able to remove another subsequently summoned juror who ultimately sat on the jury, and who was ‘partial or incompetent.’” *Wach*, 2001 UT 35, ¶ 36 (quoting *Menzies*, 889 P.2d at 398). Defendant has failed to do so.

Defendant argues that he was prejudiced by the loss of his peremptory challenge because if he had not been compelled to remove Ms. English, he would have removed Juror 8, Don Dalling, who had been the victim of a

burglary and car theft. Aplt. Brf. at 24.<sup>5</sup> Defendant contends that Dallings' "experience likely made him more sympathetic to a purported victim of crime." Aplt. Brf. at 25. However, Defendant stops short of claiming that Dalling was biased. Indeed, he appears to concede that Dalling was not biased. See Aplt. Brf. at 24 (acknowledging that Dallings' experience "may not be sufficient to support a for-cause challenge"). Because Defendant "has not asserted that he faced a partial or biased jury," his claim must fail. *Menzies*, 889 P.2d at 400. Defendant is entitled to an impartial jury, not to a more sympathetic or favorable jury. See *Baker*, 935 P.2d at 505-06.

To the extent Defendant claims that Dalling was biased, Defendant's claim fails under the invited error doctrine. Defendant did not object to the seating of Dalling, but passed him for cause. See R. 970:46. He thus waived any possible claim of bias with respect to Dalling. See *Wach*, 2001 UT 35, ¶ 40; accord *State v. Winfield*, 2006 UT 4, ¶ 21, 128 P.3d 1171 (declining to review a claim of inadequate voir dire because defendant's "affirmative representations regarding the acceptability of the jury panel invited the trial court to proceed without

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<sup>5</sup> Defendant incorrectly asserts that Dalling was the victim of a robbery. See Aplt. Brf. at 24. Dalling originally described the crime as a robbery, R. 970:11, but voir dire revealed that he was not the victim of a robbery, but of a burglary – the thief broke into Dallings' home while he was away and "took off with a few things." R. 970:11-12.

further questioning of the panel and without removing any additional jurors for cause”).

Even if Defendant had unsuccessfully challenged Dalling for cause, Defendant had four other peremptory challenges with which he could have removed Dalling. His failure to use one of those remaining peremptory challenges to remove Dalling also results in the waiver of any challenge to Dalling on appeal. *See Baker*, 935 P.2d at 507 (“To preserve the issue on appeal, a defendant whose for-cause challenge has been denied must exercise a peremptory challenge, if one is available, to achieve a legally impartial jury”).<sup>6</sup>

In summary, because Defendant removed Ms. English with a peremptory challenge and has failed to show that any seated juror was biased, he is not entitled to reversal for any alleged error of the trial court in refusing to remove English for cause.

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<sup>6</sup> Even assuming, *arguendo*, that Defendant had timely challenged Dallings’ partiality at trial and exhausted his peremptory challenges, his claim would fail on the merits. Dallings’ house was burglarized while he was away and his car was stolen, but later recovered. JQ8 at 4. Those crimes bore little resemblance to the violent murders involved in this case. It thus cannot be said that “a question of potential bias” arose, because Dalling “ha[d] been the victim of a similar crime.” *Wach*, 2001 UT 35, ¶ 28. Moreover, Dalling stated he had no strong feelings as a result of the burglary and theft, and affirmed that the experience would not affect his ability to fairly judge the evidence. JQ8 at 4; R. 970: 11. Given the *voir dire* revelation that Dallings’ daughter once worked at the Salt Lake Legal Defender Association, Defendant’s trial counsel may very well have viewed Dalling favorably. R. 970: 11.

**C. In any event, the for-cause challenge to Prospective Juror No. 19 was properly denied.**

Before reversing a conviction for the trial court's failure to remove a prospective juror for cause, this Court applies a two-part test. *Harding v. Bell*, 2002 UT 108, ¶ 16, 57 P.3d 1093; *accord Wach*, 2001 UT 35, ¶ 24. The Court considers: (1) "whether the trial court exceeded its discretion in failing to excuse the prospective juror for cause," and (2) "whether the trial court's failure to strike the prospective juror actually prejudiced the [objecting] party." *Harding*, 2002 UT 108, ¶ 16; *accord Wach*, 2001 UT 35, ¶ 24. As explained above, Defendant has not demonstrated prejudice. Accordingly, this Court need not reach the first inquiry, i.e., whether the trial court below exceeded its discretion in refusing to remove Ms. English for cause. *See Harding*, 2002 UT 108, ¶ 17. Even so, the trial court did not abuse its discretion in refusing to remove her.

Defendant argues that English was biased and should have been removed for cause because she was aware of the policies and procedures affecting in-custody defendants. Aplt. Brf. at 13-21. But the cases cited by Defendant address due process rights relating to "courtroom practices" or arrangements that are "inherently prejudicial." *Id.* at 567-72; *State v. Daniels*, 2002 UT 2, 40 P.3d 611 ("declin[ing] to hold, as a matter of law, that a trial inside a prison is *inherently* prejudicial and thereby violative of the right to a fair trial").

Defendant has not identified any such practice here. Those cases, therefore, are inapposite. Defendant has identified no practice which was inherently prejudicial or that was otherwise unduly prejudicial under the circumstances. Nothing in the record suggests that extra or conspicuous security personnel were deployed to guard Defendant or that Defendant was shackled during trial. Indeed, the trial court granted Defendant's motion that he not be shackled during the jury trial. R. 514.

Moreover, under the circumstances of this case, the simple knowledge that Defendant might be in custody was not inherently prejudicial. As recognized by the U.S. Supreme Court, "jurors are quite aware that the defendant appearing before them did not arrive there by choice or happenstance." *Holbrook v. Flynn*, 475 U.S. 560, 567 (1986). In this case, Defendant was accused of murdering two people and attempting to murder a third. The jury was also aware that he was civilly committed to the state mental hospital for some ten years following the murders. Under these circumstances, only a naïve jury would have assumed that Defendant was not in custody. Accordingly, any "inside" knowledge that Defendant was in custody would not "present[ ] an unacceptable risk of bringing into play impermissible factors that might erode the presumption of innocence." *State v. Daniels*, 2002 UT 2, ¶ 20, 40 P.3d 611.

Defendant also takes issue with English's response that because of her experience as a transportation officer, she "wouldn't be in awe of [the evidence] as much as . . . a civilian" and that she "would be able to evaluate [the evidence] more clearly." R. 970: 28-29. At trial, however, counsel for Defendant represented that he "d[id]n't see an issue" with any of Ms. English's responses, except for her knowledge that Defendant would be transported from jail to court. R. 970: 32. He is thus barred from raising that claim on appeal. *See Winfield*, 2006 UT 4, ¶ 21. In any event, the clear import of English's response was she would not be unduly influenced by the force of the State's evidence.

In summary, Defendant has failed to demonstrate that the trial court abused its discretion in failing to remove Ms. English for cause.

## **II.**

### **THE ADMISSION OF DEFENDANT'S SPONTANEOUS STATEMENTS TO POLICE FOLLOWING HIS ARREST DOES NOT REQUIRE REVERSAL UNDER *MIRANDA***

In his second point on appeal, Defendant alleges that two statements he made to officers following his arrest were the product of custodial interrogation under *Miranda v. Arizona*, 384 U.S. 436 (1966). Aplt. Brf. at 28-34. He claims that because he had not been given his *Miranda* warning at that time, admission of the statements at trial requires reversal. Aplt. Brf. at 34-38. This claim also lacks merit.

\* \* \*

After apprehending and handcuffing Defendant near the gas station, Officer Steven Stinson asked Defendant “what was going on.” R. 966: 27. Defendant responded that he had killed the three victims. R. 806. Later, but before being transported to the police station, Defendant offered additional information to the officers, without being prompted by further questioning: (1) to Officer Ken Yurgelon, Defendant said, “I had both guns in my hands. . . . I had [the] .22 over here . . . and the .38 over here,” R. 969: 138; and (2) to Officer Stinson, Defendant said that he shot the victims “because they had burned him on a drug buy of \$6,000” and that “he’d been sniffing glue since he was a young boy.” R. 969: 148.

Because Defendant was in custody and had not been given a *Miranda* warning, the State agreed that Defendant’s response to the officer’s question should not be admitted, the trial court granted Defendant’s motion to suppress that statement, and the statement did not come in at trial. *See* R. 966: 27-30; R. 971: 143-59. The trial court concluded, however, that subsequent, spontaneous statements were admissible. R. 966: 30.

The defense did not argue that these subsequent statements came in response to specific questions, but contended that they should be viewed as part of an overall custodial interrogation. R. 966: 28. He argued that if, for example,



Defendant “offer[ed] some more information” about his involvement “two minutes” after Officer Stinson’s initial question was asked and answered, any additional statements of Defendant must be viewed as part of the same interrogation. R. 966: 28. The trial court rejected Defendant’s argument and Defendant now appeals. This Court should affirm.

The law is well settled that where a *Miranda* warning is not given to a suspect who is in police custody, any statements made by the suspect in response to police questioning are inadmissible at trial. *See State v. Levin*, 2006 UT 50, ¶ 1, 144 P.3d 1096. If a trial court improperly admits statements in violation of *Miranda*, the conviction will be reversed unless the error is harmless. *State v. Velarde*, 734 P.2d 440, 444 (Utah 1986). As with Defendant’s first claim, this Court need not reach the merits of his *Miranda* claim because any error was harmless.<sup>7</sup>

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<sup>7</sup> The State does not concede that the two statements were the product of custodial interrogation. The State agrees that Defendant was in custody for purposes of *Miranda* analysis. However, contrary to Defendant’s claim, Defendant’s statements were not the result of police interrogation. “Interrogation . . . incorporates any ‘words or actions on the part of police officers that they *should have known* were reasonably likely to elicit an incriminating response.’” *Levin*, 2006 UT 50, ¶ 37 (quoting *Rhode Island v. Innis*, 446 U.S. 291, 298-301 (1980)) (emphasis supplied in *Levin*). In this case, the officers could not have anticipated that the question, “what[’s] going on,” would elicit information minutes later without further probing. Such “[v]olunteered statements . . . are not barred by the Fifth Amendment and their admissibility is not affected by [the *Miranda* decision].” *Id.* (quoting *Miranda*, 384 U.S. at 478).

The law is not clear as to whether a *Miranda* violation alone amounts to constitutional error, requiring a showing that the error is harmless beyond a reasonable doubt. See *State v. Troyer*, 910 P.2d 1182, 1187 (Utah 1996) (noting the U.S. Supreme Court's holding in *Oregon v. Elstad*, 470 U.S. 298, 306 n.1 (1985), "that 'a simple failure to administer *Miranda* warnings is not in itself a violation of the Fifth Amendment'"); accord *State v. Kiriluk*, 1999 UT App 30, ¶ 11, 975 P.2d 469. But even if it does, any error in admitting Defendant's subsequent statements to the arresting officers easily meets that heightened standard.<sup>8</sup>

"In evaluating whether an evidentiary error was harmless beyond a reasonable doubt, [the Court] focus[es] on 'whether there is a reasonable possibility that the evidence complained of might have contributed to the conviction.'" *State v. Morrison*, 937 P.2d 1293, 1296 (Utah App. 1997). In doing so, the Court "'look[s] to what seems . . . to have been the probable impact of the [statement] on the minds of the average juror.'" *Kiriluk*, 1999 UT App 30, ¶ 11 (quoting *Harrington v. California*, 395 U.S. 250, 254 (1969)). Factors a court may consider "includ[e] 'the importance of the [admission] in the prosecution's case,

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<sup>8</sup> In *United States v. Patane*, 542 U.S. 630, 641-42 (2004), the U.S. Supreme Court held that a failure to give *Miranda* warnings did not require the suppression of physical evidence derived from the suspect's unwarned but voluntary statements. The State submits that if the fruit of the poisonous tree doctrine does not apply to violations of *Miranda*, such violations do not constitute constitutional error.

whether [it] was cumulative, the presence or absence of evidence collaborating or contradicting the [admission] on material points, the extent of cross-examination otherwise permitted, and, of course, the overall strength of the prosecution's case.'" *Id.* (quoting *State v. Villareal*, 889 P.2d 419, 425-26 (Utah 1995)). This standard is easily met here.

Debbie Pryor testified that she saw Defendant fatally shoot Chuck, heard the gunshots in the front room, and heard Defendant tell Scotty that he shot Suzie because she did not love him. R. 969: 37-41, 55, 67, 72. Scotty Bunnell told the paramedic treating him that Defendant had shot him. R. 969: 164, 178. Defendant was apprehended carrying a .38 caliber revolver and a .22 caliber revolver. R. 969: 129-34, 147-48. Ballistics tests on bullets and shell casings recovered at the scene confirmed that they were fired from the two revolvers seized from Defendant when he was arrested. R. 971: 47, 54-57, 65-66; SE22; SE23. And finally, the State introduced Defendant's *Mirandized* confession to police, where he admitted much more. He admitted to killing Suzie because he loved her, admitted to killing Chuck, admitted to shooting Scotty, admitted to using .38 and .22 caliber revolvers, and admitted to sniffing paint thinner. SE16.

Given the foregoing evidence, Defendant's statements to the arresting officers can hardly be said to have had any impact on the minds of an average juror. The other evidence of Defendant's guilt was overwhelming. At best, the

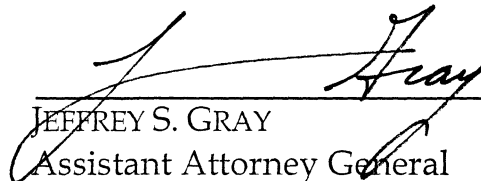
challenged statements were cumulative. Because any erroneous admission of the statements was harmless beyond a reasonable doubt, Defendant's *Miranda* claim fails.

### CONCLUSION

For the foregoing reasons, the Court should affirm.

Respectfully submitted March 27, 2009.

MARK L. SHURTLEFF  
Utah Attorney General

  
\_\_\_\_\_  
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Counsel for Appellee

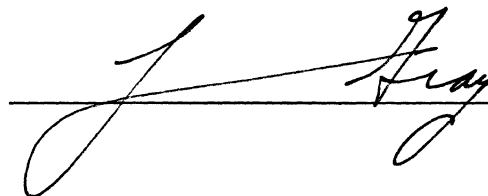
### CERTIFICATE OF SERVICE

I certify that on March 27, 2009, two copies of the foregoing brief were

☒ mailed ☐ hand-delivered to:

Linda M. Jones  
Salt Lake Legal Defender Ass'n  
424 East 500 South, Ste. 300  
Salt Lake City, UT 84111

A digital copy of the brief was also included: ☐ Yes ☒ No

  
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## **ADDENDA**

## **ADDENDUM A**

### **Constitutional Provisions and Rules**

## **U.S. Const. amend. V**

No person . . . shall be compelled in any criminal case to be a witness against himself . . . .

## **U.S. Const. amend. VI**

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, . . . .

### **Rule 18. Selection of the Jury**

(a) The judge shall determine the method of selecting the jury and notify the parties at a pretrial conference or otherwise prior to trial. The following procedures for selection are not exclusive.

(a)(1) *Strike and replace method.* The court shall summon the number of the jurors that are to try the cause plus such an additional number as will allow for any alternates, for all peremptory challenges permitted, and for all challenges for cause granted. At the direction of the judge, the clerk shall call jurors in random order. The judge may hear and determine challenges for cause during the course of questioning or at the end thereof. The judge may and, at the request of any party, shall hear and determine challenges for cause outside the hearing of the jurors. After each challenge for cause sustained, another juror shall be called to fill the vacancy, and any such new juror may be challenged for cause. When the challenges for cause are completed, the clerk shall provide a list of the jurors remaining, and each side, beginning with the prosecution, shall indicate thereon its peremptory challenge to one juror at a time in regular turn, as the court may direct, until all peremptory challenges are exhausted or waived. The clerk shall then call the remaining jurors, or so many of them as shall be necessary to constitute the jury, including any alternate jurors, and the persons whose names are so called shall constitute the jury. If alternate jurors have been selected, the last jurors called shall be the alternates, unless otherwise ordered by the court prior to voir dire.

(a)(2) *Struck method.* The court shall summon the number of jurors that are to try the cause plus such an additional number as will allow for

any alternates, for all peremptory challenges permitted and for all challenges for cause granted. At the direction of the judge, the clerk shall call jurors in random order. The judge may hear and determine challenges for cause during the course of questioning or at the end thereof. The judge may and, at the request of any party, shall hear and determine challenges for cause outside the hearing of the jurors. When the challenges for cause are completed, the clerk shall provide a list of the jurors remaining, and each side, beginning with the prosecution, shall indicate thereon its peremptory challenge to one juror at a time in regular turn until all peremptory challenges are exhausted or waived. The clerk shall then call the remaining jurors, or so many of them as shall be necessary to constitute the jury, including any alternate jurors, and the persons whose names are so called shall constitute the jury. If alternate jurors have been selected, the last jurors called shall be the alternates, unless otherwise ordered by the court prior to voir dire.

(a)(3) In courts using lists of prospective jurors generated in random order by computer, the clerk may call the jurors in that random order.

(b) The court may permit counsel or the defendant to conduct the examination of the prospective jurors or may itself conduct the examination. In the latter event, the court may permit counsel or the defendant to supplement the examination by such further inquiry as it deems proper, or may itself submit to the prospective jurors additional questions requested by counsel or the defendant. Prior to examining the jurors, the court may make a preliminary statement of the case. The court may permit the parties or their attorneys to make a preliminary statement of the case, and notify the parties in advance of trial.

(c) A challenge may be made to the panel or to an individual juror.

(c)(1) The panel is a list of jurors called to serve at a particular court or for the trial of a particular action. A challenge to the panel is an objection made to all jurors summoned and may be taken by either party.

(c)(1)(i) A challenge to the panel can be founded only on a material departure from the procedure prescribed with respect to the selection, drawing, summoning and return of the panel.



(c)(1)(ii) The challenge to the panel shall be taken before the jury is sworn and shall be in writing or made upon the record. It shall specifically set forth the facts constituting the grounds of the challenge.

(c)(1)(iii) If a challenge to the panel is opposed by the adverse party, a hearing may be had to try any question of fact upon which the challenge is based. The jurors challenged, and any other persons, may be called as witnesses at the hearing thereon.

(c)(1)(iv) The court shall decide the challenge. If the challenge to the panel is allowed, the court shall discharge the jury so far as the trial in question is concerned. If a challenge is denied, the court shall direct the selection of jurors to proceed.

(c)(2) A challenge to an individual juror may be either peremptory or for cause. A challenge to an individual juror may be made only before the jury is sworn to try the action, except the court may, for good cause, permit it to be made after the juror is sworn but before any of the evidence is presented. In challenges for cause the rules relating to challenges to a panel and hearings thereon shall apply. All challenges for cause shall be taken first by the prosecution and then by the defense.

(d) A peremptory challenge is an objection to a juror for which no reason need be given. In capital cases, each side is entitled to 10 peremptory challenges. In other felony cases each side is entitled to four peremptory challenges. In misdemeanor cases, each side is entitled to three peremptory challenges. If there is more than one defendant the court may allow the defendants additional peremptory challenges and permit them to be exercised separately or jointly.

(e) A challenge for cause is an objection to a particular juror and shall be heard and determined by the court. The juror challenged and any other person may be examined as a witness on the hearing of such challenge. A challenge for cause may be taken on one or more of the following grounds. On its own motion the court may remove a juror upon the same grounds.

(e)(1) Want of any of the qualifications prescribed by law.

(e)(2) Any mental or physical infirmity which renders one incapable of performing the duties of a juror.

(e)(3) Consanguinity or affinity within the fourth degree to the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted.

(e)(4) The existence of any social, legal, business, fiduciary or other relationship between the prospective juror and any party, witness or person alleged to have been victimized or injured by the defendant, which relationship when viewed objectively, would suggest to reasonable minds that the prospective juror would be unable or unwilling to return a verdict which would be free of favoritism. A prospective juror shall not be disqualified solely because the juror is indebted to or employed by the state or a political subdivision thereof.

(e)(5) Having been or being the party adverse to the defendant in a civil action, or having complained against or having been accused by the defendant in a criminal prosecution.

(e)(6) Having served on the grand jury which found the indictment.

(e)(7) Having served on a trial jury which has tried another person for the particular offense charged.

(e)(8) Having been one of a jury formally sworn to try the same charge, and whose verdict was set aside, or which was discharged without a verdict after the case was submitted to it.

(e)(9) Having served as a juror in a civil action brought against the defendant for the act charged as an offense.

(e)(10) If the offense charged is punishable with death, the juror's views on capital punishment would prevent or substantially impair the performance of the juror's duties as a juror in accordance with the instructions of the court and the juror's oath in subsection (h).

(e)(11) Because the juror is or, within one year preceding, has been engaged or interested in carrying on any business, calling or employment, the carrying on of which is a violation of law, where defendant is charged with a like offense.

(e)(12) Because the juror has been a witness, either for or against the defendant on the preliminary examination or before the grand jury.

(e)(13) Having formed or expressed an unqualified opinion or belief as to whether the defendant is guilty or not guilty of the offense charged.

(e)(14) Conduct, responses, state of mind or other circumstances that reasonably lead the court to conclude the juror is not likely to act impartially. No person may serve as a juror, if challenged, unless the judge is convinced the juror can and will act impartially and fairly.

(f) Peremptory challenges shall be taken first by the prosecution and then by the defense alternately. Challenges for cause shall be completed before peremptory challenges are taken.

(g) The court may direct that alternate jurors be impaneled. Alternate jurors, in the order in which they are called, shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. The prosecution and defense shall each have one additional peremptory challenge for each alternate juror to be chosen. Alternate jurors shall be selected at the same time and in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath and shall have the same functions, powers, and privileges as principal jurors. Except in bifurcated proceedings, an alternate juror who does not replace a principal juror shall be discharged when the jury retires to consider its verdict. The identity of the alternate jurors may be withheld until the jurors begin deliberations.

(h) When the jury is selected an oath shall be administered to the jurors, in substance, that they and each of them will well and truly try the matter in issue between the parties, and render a true verdict according to the evidence and the instructions of the court.

[Amended effective November 1, 2001; November 1, 2007.]

## **ADDENDUM B**

Jury Lists (R. 782)

## HONORABLE JUDITH A. HERTC QUESTIONNAIRE

02/22/2008

SEAT	JUROR ID	NAME	APPEARED		EXCUSED	SELECTED
			YES	NO		
✓ 1	✓ 1808290	VAWDREY, BART D <i>for cause</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 2	✓ 18273282	PLASTOW, DAVID AARON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 3	✓ 18304006	CARLSON, STEVEN R	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 4	• 18357189	STRINE, MARY SUSAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NO ✓ 5	• 18540895	WILLIS, JOANNE D <i>for cause</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 6	18598173	RUDGE, ANN DERN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 7	• 18605489	WALKER, RYAN L	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 8	18628069	DALLING, DON K	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 9	• 18646941	BOWERS, MELANIE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
✓ 10	• 18801981	BEAZER, ROBERT GAYLEN <i>for cause</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
✓ 11	• 19635181	VAMIANAKIS, ARTEMIS DIANA <i>for cause</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
✓ 12	21259608	JOHNSON, KRISTIN GUNNELL <i>for cause</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
✓ 13	62973229	MCFALL, MISTY <i>for cause</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 14	✓ 62996833	SHAW, DEBORAH H <i>No SHAW</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
✓ 15	62997341	BERGSTROM, REBECCA E <i>for cause</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
✓ 16	• 63004345	YANNI, LESLEE ELLEN <i>for cause</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
✓ 17	63016344	MONTOYA, JIMMY JULIAN <i>for cause</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 18	• 63026987	BRADLEY, MICHAEL KEVIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 19	63034200	ENGLISH, ANNICK J	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 20	✓ 63039837	ADAMSON, AMY MICHELLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 21	63049089	RINGWOOD, LORRENE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 22	63052463	LAUKAT, JULEE W	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 23	• 63057849	KELEZ, ROBERT WARD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 24	• 63074161	PFEIL, JUDITH M <i>File</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OK ✓ 25	• 63085989	GALLEGOS, ANTHONY E	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

02/22/2008

SEAT	JUROR ID	NAME	APPEARED		EXCUSED	SELECTED
			YES	NO		
26	63099702	HEATH, ELIZABETH ANN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27	63104791	LARSON, DAVID W	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28	63146798	KRAMER, COLLEEN H <i>stomach flu</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29	63156469	MCGUIRE, BROOKE ELIZABETH	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30	63179694	PALMER, CARMEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31	63185915	RUFENER, MICHAEL W	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32	63187892	RUGG, MISTY KAY <i>for cause</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33	63190240	MONSON, AMY LEE <i>for cause</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34	63198062	BECK, PATRICK JONATHAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
35	63225200	SORENSEN, JANA B	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
36	63285874	HARDING, WENDY G	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
37	63291392	BINTZ, SHERI	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
38	63294891	NELSON, ANNA L	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
39	63303169	MANNION, KAREN C	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
40	63347246	DENISON, NEIL JAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
41	63352031	JOHNSON, SHANTEL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
42	63362131	HILL, GERALDINE J	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
43	63385971	SOLOMON, ROBERT DELL RAY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
44	63415763	CARRILLO, GLORIA JEAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
45	63418363	SMOCK, DENISE K	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
46	63428991	ALLEN, JANEEN S <i>for cause</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
47	63449375	OPENSHAW, MATTHEW GRANT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
48	63486708	MONTGOMERY, JACOB RAYMOND	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
49	63497686	CAMP, ADAM BRUCE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
50	63920359	KENT, JANA LEE MICHELLE <i>for cause</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

02/22/2008

SEAT	JUROR ID	NAME	APPEARED		EXCUSED	SELECTED
			YES	NO		
✓ 51	64271660	CLEGG, KRISTEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<del>52</del>	<del>64284372</del>	<del>ERRETT, THOMAS WILLIAM</del>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
✓ 53	65234520	VAN STONE, NELSON PAGE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<del>54</del>	<del>65381546</del>	<del>LOSEE, HANNAH</del>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<del>55</del>	<del>65403500</del>	<del>MAYFIELD, CHAD RICHARD</del>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
✓ 56	✓ 65464111	BARNARD, WILLIAM CRAIG	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
✓ 57	• 65962323	GARR, BEVERLY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
✓ 58	66032106	DAVIS, RYAN LEWIS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I CERTIFY THAT THE ABOVE INDICATED JURORS REPORTED FOR SERVICE ON THE DATES(S) SHOWN:

DATE(S) \_\_\_\_\_

CASE NO. \_\_\_\_\_

CLERK SIGNATURE \_\_\_\_\_

Date 2 25 08

FILED DISTRICT COURT  
Third Judicial District

State of Utah

vs.

Edgar Tiedeman

FEB 25 2008

No. 021912452

By

SALT LAKE COUNTY

Deputy Clerk

Michael Colby

Heidi Buchi

Attorneys for Plaintiff

Attorneys for Defendant

## JURY LIST

- 1 ~~Plastow, David Aaron~~ State's # 1
- 2 ~~Carlson, Steven R.~~ state's # 4
- 3 Strine, Mary Susan
- 4 Rudge, Ann Dern
- 5 ~~Walker, Ryan L~~ Defendants # 2
- 6 Dalling, Don K.
- 7 ~~Bowers, Melanie~~ State's # 5
- 8 ~~Shaw, Deborah H.~~ Defendant's # 3
- 9 ~~Bradley, Michael Kevin~~ State's # 2
- 10 ~~English, Annick J.~~ Defendant's # 1
- 11 Adamson, Amy Michelle
- 12 Ringwood, Correne
- 13 ~~Laukat, Julie W.~~ state's # 3
- 14 ~~Kelez, Robert Ward~~ Defendant's # 5
- 15 ~~Pfeil, Judith M.~~ Defendant's # 4
- 16 Gallegos, Anthony E
- 17 Heath, Elizabeth Ann
- 18 Larson, David W
- 19 McGuire, Brooke Elizabeth
- 20 Palmer, Carmen



## **ADDENDUM C**

Redacted Transcript of *Mirandized* Confession

**FILED DISTRICT COURT**  
Third Judicial District

JAN 24 2003

SALT LAKE COUNTY

By \_\_\_\_\_

*SB*

IN THE THIRD DISTRICT COURT  
OF SALT LAKE COUNTY, STATE OF UTAH

-----

State of Utah,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	CASE NO. 021912452
	:	
Edgar Tiedemann,	:	
	:	
	:	
Defendant.	:	

Attached hereto is the Courts redacted copy of detective Ron Edwards' interview with  
defendant

FILED  
UTAH APPELLATE COURTS

JUL 17 2008

20080471 CA

**IN THE THIRD DISTRICT COURT  
OF SALT LAKE COUNTY, STATE OF UTAH**

<b>State of Utah,</b>	<b>:</b>	
<b>Plaintiff,</b>	<b>:</b>	
<b>vs.</b>	<b>:</b>	<b>CASE NO. 021912452</b>
<b>Edgar Tiedemann,</b>	<b>:</b>	
<b>Defendant.</b>	<b>:</b>	

Attached hereto is the Courts redacted copy of detective Ron Edwards' interview with defendant.

FILED DISTRICT COURT  
Third Judicial District

TAPED INTERVIEW  
EDGAR TIEDEMANN  
NOVEMBER 2, 1991  
91-20773  
PAGE 1

JAN 14 2008

SALT LAKE COUNTY

By \_\_\_\_\_  
Deputy Clerk

RE: ....at 1991, the time is 2:15 PM. I'm Detective Ron Edwards, West Valley Police Department. Sgt. Ed Spann with the West Valley Police Department. I have to read you your rights per miranda. Do you understand that?

ET: Ya.

RE: You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to have a lawyer present before any questioning. Do you understand that?

ET: ...inaudible...

RE: Do you understand that you can stop this questioning at anytime?

ET: Ya.

RE: If you cannot afford an attorney, we will provide one for you. Do you understand that?

ET: Ya.

RE: Do you still wish to speak to us at this time?

ET: Ya.

RE: Are you intoxicated?

ET: On toluene.

RE: What's toluene?

ET: Toluene. It's, it's a paint thinner.

RE: It's a paint thinner?

ET: Ya.

RE: Okay, do you know why we're going to talk to you?

ET: Ya.

RE: What are we going to talk to you about?

TAPED INTERVIEW  
EDGAR TIEDEMANN  
NOVEMBER 2, 1991  
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PAGE 2

ET: The murders out there.

RE: What murders?

ET: The murders out there at West Valley.

RE: Who are they?

ET: Suzie, Chuck and Scotty.

RE: Whose Suzie?

ET: She's the woman I love.

RE: That you love?

ET: Ya.

RE: What happened to her?

ET: I don't want to talk about it.

RE: You don't want to talk about it?

ET: No.

ES: Edgar?

ET: What.

ES: Why don't you want to talk about it?

~~ET: I love that woman so much.~~

ES: What is it that you don't want to talk about? You said  
murders in West Valley, where in West Valley?

ET: ....inaudible....Hummingbird Street.

ES: I'm sorry, where?

ET: 1308 Hummingbird Street.

ES: 1308 Hummingbird, who lives there?

ET: Me.

TAPED INTERVIEW  
EDGAR TIEDEMANN  
NOVEMBER 2, 1991  
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PAGE 3

RE: Who lives with you?

ET: Suzie and Scotty and they just moved in last night, I don't know.

RE: Okay, what don't you want to talk about? Edgar? What don't you want to talk about, Ed?

ES: Edgar, we're not going to force you talk about anything. We're asking you questions. As Detective Edwards stated, you can answers this questions, not answer that question, answer this question, not answer that question. You don't have to answer any of our questions at all. You can stop at anytime.

ET: Okay.

ES: He made that clear to you, right?

ET: Ya.

ES: Okay. You stated you wanted to talk to us, what part do you and what part don't you want to talk to us about?

RE: Edgar do you remember me reading you're rights earlier and you signing a waiver for us to search your home?

ET: Ya.

RE: Okay, we were called to your home on a gunshot. We got in there and seen some people. Who shot them?

ET: Me.

RE: You did?

ET: Ya.

RE: Why did you shoot them?

ET: I shot Suzie cause I love her and I shot the other two.

RE: Why did you shoot Chuck for?

ET: Just to cover up the murder.

RE: Okay, how did Debra get, come into the picture?

TAPED INTERVIEW  
EDGAR TIEDEMANN  
NOVEMBER 2, 1991  
91-20773  
PAGE 4

ET: I was going to shoot her too but she was pregnant.

RE: Okay, why? Why did you shoot them?

ET: I shot Suzie cause I love her, I love her so much.

~~RE: Was she going to leave you?~~

~~ET: No. She wouldn't.~~

~~RE: If you loved her that much, there's a reason why you shot her.  
Could you please explain why you shot her?~~

~~ET: I don't know.~~

RE: Okay. What time did you shoot them?

ET: I don't know.

RE: Was it daylight?

ET: I don't know.

RE: How long have you been sniffing that solvent?

ET: Since 1962.

RE: Tonight how long? Or today?

ET: All day.

RE: Do you know what today's date is?

ET: You told me but I don't remember.

RE: Do you know what day of the week it is?

ET: No.

RE: What was yesterday?

ET: I don't have any idea.

ES: Do you work Edgar?

ET: No, I'm on SSI.

TAPED INTERVIEW  
EDGAR TIEDEMANN  
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RE: What's SSI?

ET: Social Security Supplemental Income.

RE: Okay. What kind of gun did you use?

ET: A .22 and a .38.

~~RE: What did you shoot Suzie with?~~

~~ET: .22.~~

RE: What did you shoot Martin with?

ET: Who's that?

RE: Isn't that her son?

ET: No, that's Scotty.

RE: Is that Scotty?

ET: Ya.

RE: That was sleeping on the floor?

ET: Ya.

RE: Okay, what did you shoot him with?

ET: I don't know.

RE: What did you shoot Chuck with?

ET: .38.

RE: How many times did you shoot Chuck?

ET: Twice.

RE: Where at?

ET: The throat.

RE: And where else?



TAPED INTERVIEW  
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PAGE 6

ET: I didn't see where the other place was.

RE: Was he trying to get out of the bed?

ET: Ya.

ES: Who did you shoot first?

ET: Suzie.

RE: Then what happened? Did Scott wake up?

ET: Ya.

RE: So they were all asleep?

ET: Ya. No they was both awake.

RE: They were both awake talking to you?

ET: Ya.

RE: Where were the guns at when you decided to shoot them?

ET: My hands.

RE: Where were the guns at before you picked up the guns? Where did you go get the guns from?

ET: I picked, got them out of my room.

RE: Is yours the bedroom way in the back?

ET: Ya.

RE: Okay. You took them out of that bedroom?

ET: Ya.

RE: Was Chuck asleep?

ET: I think so.

RE: Okay. When you got the guns, where were, were they already loaded or did you have to load them?

TAPED INTERVIEW  
EDGAR TIEDEMANN  
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PAGE 7

ET: They were already loaded.

RE: Do you always carry loaded guns in your home?

ET: Ya.

RE: What kind of car do you own?

ET: 1991 S-10.

RE: Okay, do you know what that license plate number is?

ET: 5, ah 2221CN, I think.

RE: Okay. How long have you owned that S-10?

ET: Ah, since November of 1990.

RE: Whose is the brown vehicle in the driveway?

ET: That's Suzie's, I bought it for her.

RE: Okay, whose...

~~ET: And she didn't even appreciate it.~~

~~RE: She didn't?~~

~~ES: How long have you and Suzie been together?~~

~~ET: Thousands of years.~~

~~RE: Does Suzie work?~~

~~ET: She's a prostitute.~~

~~ES: What's Suzie's last name?~~

~~ET: Sessions.~~

~~RE: Is she a....~~

~~ET: She shoots heroin. That's why she has to stupid work.~~

~~ES: Do you do drugs also, Edgar?~~

TAPED INTERVIEW  
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PAGE 8

ET: No, I don't do, I used to do it. I done it with her for about two or three, I mean two or three days and it didn't even effect me or anything. I know I didn't, couldn't even get off, just got back to toluene.

~~RE: So why did you have to shoot Suzie?~~

~~ET: I don't know, I don't know.~~

~~ES: Does Suzie usually sleep in the bedroom with you or does she sleep on the couch?~~

~~ET: No, no, she just moved in. She's...~~

~~RE: How long have you known Suzie?~~

~~ET: About 10 years.~~

~~RE: And how long has she moved in with you?~~

~~ET: She moved in about, she lived out there in Rose Park for about two or three months after my mom died and she got an apartment of her own and then.~~

RE: How old are you Edgar?

ET: 45.

RE: How long have you been on Social Security?

ET: Since November of 88.

RE: Where did you work at before you went on Social Security?

ET: I don't remember.

RE: Do you have any physical impairments? Any physical injuries?

ET: I had a stroke. I couldn't get out of my room for three days. I couldn't talk for seven. I was in the hospital for two and a half months.

RE: You said you had a stroke?

ET: Ya.

TAPED INTERVIEW  
EDGAR TIEDEMANN  
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RE: How long ago?

ET: ...inaudible...it was 1980, I mean 1988, November of 1988.  
The papers are in the trailer.

RE: Okay. Is there any mental problems?

ET: Ya. All kinds.

RE: What kind of mental problems?

ET: See, I think I'm Adolf Hitler. Adolf Hitler died in May of 1945 and I was born in 19, October 1946. I think I'm Adolf Hitler.

~~ES: Edgar, was Suzie your girlfriend?~~

~~ET: Ya. I loved her more than anything else in this world.~~

~~ES: Did Suzie love you?~~

~~ET: I don't, I don't know, I, I don't think so. I don't think she did.~~

~~ES: Well you've know her off and on for ten years and...~~

~~ET: Ya.~~

~~ES: Is she living in your mom's house in Rose Park?~~

~~ET: Ya.~~

~~ES: Did you live at your mom's house in Rose Park?~~

~~ET: Ya.~~

~~ES: When did you move to West Valley?~~

~~ET: In May of 1989 or 1990 or 1991 or whatever.~~

~~ES: When did she move out here in West Valley, just today, last night or night before or whatever, I don't know.~~

~~RE: Where were her and her son staying before then?~~

~~ET: Ah, 1446 West 400 North, Apartment C.~~

TAPED INTERVIEW  
EDGAR TIEDEMANN  
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RE: ~~Why did they move out to you?~~

ET: ~~Cause they got kicked out of their apartments.~~

RE: ~~Why?~~

ET: ~~They, I don't know why, they just did, I don't know.~~

RE: Who's Chuck?

ET: She's Debbie's boyfriend. That's....

RE: When did he get in town?

ET: I think he came in a couple of three days ago.

RE: Where's Debbie living?

ET: With Suzie.

RE; So she was staying in that house too?

ET: Ya.

RE: Trailer?

ET; Ya.

RE; So Chuck got here and he was staying in that back bedroom too?

ET: I guess, I don't know.

RE: When you shot him, is that the bedroom he was....

ET: Ya.

RE: And you did shoot him?

ET: Ya.

ES: Why did you shoot him?

ET: I don't know. I don't know. Just....

RE: ~~I want you to think about this, Edgar. You shot Suzie first  
with the .22.~~

TAPED INTERVIEW  
EDGAR TIEDEMANN  
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ET: ~~Ya.~~

RE: Then you shot Scotty.

ET: Ya.

RE: You went in the bedroom to shoot Chuck?

ET: Ya.

RE: Tell me, describe what happened as you ah, did you turn on the light?

ET: No.

RE: Could you see him pretty good?

ET: I couldn't, I couldn't, I, I was, I just, I couldn't even see. I couldn't see him, I just, actually I couldn't even see any of them.

RE: You said that you shot him in the throat.

ET: I'm just a lucky shot.

RE: Well you said you shot him in the throat, and how would you know you shot him in the throat if you couldn't see him.

ET: Ah, afterwards I turned on the light.

RE: Did you ever turn the light back off?

ET: Ya, I turned it off about six or seven times, maybe more than that.

RE: How many times did you shoot Chuck?

ET: Twice.

RE: Why did you shoot him the second time?

ET: I just popped off two rounds.

RE: Did you have a .38 or a .357?

ET: .38.

TAPED INTERVIEW  
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NOVEMBER 2, 1991  
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ES: How many times did you shoot Scotty?

ET: I don't know, about four I guess I don't know, at least he claims.

RE: Who claims?

ET: Scotty.

RE: When did you talk to Scotty?

ET: He was still alive.

RE; He was still alive?

ET; Ya.

RE: Why didn't you shoot him again?

ET: I just couldn't handle it.

RE: After you shot everybody, was the lights on in the trailer?

ET: No, they was all off. One, the one light, the one back bedroom light was on.

RE: That was your bedroom?

ET: Ya, no the one this one.

RE: The one Chuck was in?

ET: No, the one in the hall.

RE; Oh, the hall light?

ET: Ya.

ES: Okay, Edgar what we'd like to do is kind of start back in the evening and tell us what happened. What time did they move into your house.

ET: I don't remember?

ES: Yesterday?

TAPED INTERVIEW  
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ET; I think so.

ES: Do you know what day of the week it was?

ET: I don't have any idea.

RE: Was it night time when they moved in or day light?

ET; I don't even know.

RE: Was everybody doing heroin in the house or was they just sniffing with you?

ET: No, Suzie and them and Debbie were using heroin and ah Scotty was straight and, and ah, Chuck was drunk. I don't know if he was intoxicated or what.

RE: But he'd been drinking?

ET: Ya.

RE: Everybody went to bed. What did you do?

ET: I just laid there and thought.

RE; Where at?

ET: My bedroom.

RE; All by yourself?

ET; Ya.

RE; What did you think about?

ET: I don't know what. I love everyone.

RE: When you was in the back bedroom, Edgar, with the gun, why did you have to go out and shoot them?

ET: I don't have any idea.

RE: Did you hear any voices?

ET: I think so. I don't know.



TAPED INTERVIEW  
EDGAR TIEDEMANN  
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RE: Who was telling you to go shoot them?

ET: The devil.

RE; Are you a christian man?

ET: Ya.

RE: Do you go to church?

ET: Ya, I got to...inaudible...don't go to church, but I became an L.D.S. person. I smoke and drink.

RE: You was sitting in your back bedroom, where was Debbie at?

ET: She was in the second bedroom.

RE: With Chuck?

ET: Ya.

RE: You walked down the hall?

ET; Ah-huh.

RE; Was the TV on?

ET: No.

RE: Radio on?

ET: No.

RE: What happened? Was the lights on?

ET: No. I had the one light on in the hallway.

RE; Okay, you walked in....

ET: ...inaudible...was dim.

RE: Okay, you walked down....

ET: Ya.

~~RE: ...your's standing over Suzie, what happened?~~

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ET: ~~I don't know what happened. I can't figure it out. I just....~~

RE: ~~Was the sheet over her head? Or blanket over her head?~~

ET: ~~No.~~

RE: ~~Did you see her face?~~

ET: ~~Just barely.~~

RE: ~~Was her eyes open?~~

ET: ~~Va, I don't know, I couldn't tell if her eyes were open or not, I think she was talking about something, I don't know.~~

ES: ~~Who was she talking to?~~

ET: ~~No.~~

RE: ~~Was she pleading for her life?~~

ET: ~~No.~~

RE: ~~Did she see the gun?~~

ET: ~~No.~~

RE: ~~She didn't see the gun at all?~~

ET: ~~No.~~

RE: ~~What did you say to her before you shot her?~~

ET: ~~I don't know.~~

RE: ~~What did you say after you shot her?~~


ET: ~~Nothing.~~

RE: ~~Did she move?~~

ET: ~~No.~~

RE: ~~After you shot her, [what did Scotty do?] *ok gr*~~

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 ~~ET: He got up and flipped, flipped over the covers and then I shot him.~~

RE: Where did you shoot him at?

ET: I don't know, in the stomach or, I mean in the arms and stuff like that. I don't know, I couldn't see very good ...inaudible... I just pumped about, I think I pumped two .22 shells into him and two .38 shells into him.

RE: What side of the mattress was you standing when you shot him? The kitchen side or the bedroom side of the mattress?

ET: Bedroom side.

~~RE: So how far away from you, how far away was Suzie when you shot her?~~

~~ET: Ah, there's a coffee table on the end so, I guess from the coffee table to there.~~

~~RE: Did you aim?~~

~~ET: No, I only pulled the trigger.~~

~~RE: Just one time?~~

~~ET: Ya.~~

~~RE: And it was a lucky shot?~~

~~ET: Ya.~~

~~RE: I don't believe you.~~

~~ET: I don't know, I was just...~~

~~ES: Were you angry with Suzie?~~

~~ET: Ya.~~

~~ES: What were you angry at her for?~~

~~ET: Cause she ripped me off of six or seven thousand dollars.~~

~~RE: How did she rip you off?~~

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~~ET: Well, I bought her that car for eight hundred. She was going to get her husband sent to prison and she bought coke, I mean heroin with a thousand dollars and then I got her out of jail one time and she wasn't even in jail and that was three hundred dollars, she got this ticket, Lee what's his name, Lee Ward and Debbie Lee and they split it up and shot it up in heroin and then ah, I got her, I got her an abortion and I found out she'd been fixed, I knew she'd been fixed but I mean, she didn't appreciate anything.~~

~~RE: If you know all this, why did you let her move in with you?~~

~~ET: I don't know.~~

~~RE: If you knew that she ripped you off of that money, did you ever ask her to pay you back?~~

~~ET: No.~~

~~RE: What were you trying to gain by it?~~

~~ET: I wanted to marry her. She kept promising me she was going to marry me, marry me, marry me.~~

~~RE: Was you having a sexual relationship with her?~~

~~ET: Ya.~~

~~RE: How many, you said that she was a prostitute.~~

~~ET: Ya.~~

~~RE: How often did she go out on the streets?~~

~~ET: I don't know.~~

~~RE: Who was her pimp?~~

~~ET: I think it was Lee Ward.~~

~~RE: Lee Ward?~~

~~ET: Ya.~~

~~RE: Who's that?~~

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~~ET: A Niger.~~

~~RE: Where does he live?~~

~~ET: I don't know his exact address, somewhere in 13th South,  
between 13th South and 7th West or something like that.~~

~~RE: Have you ever met him?~~

~~ET: Ya.~~

~~RE: Did he know that she was living with you?~~

~~ET: I think so.~~

RE: What's your phone number in your house?

ET: It was, ah, 263-8853, but I had it disconnected.

RE: Why?

ET: Cause I didn't trust them people. .

ES: What people?

ET: Chuck and them other peoples and stuff.

ES: When did you have it disconnected?

ET: Huh?

ES: When did you have it disconnected?

ET: The day they move in.

RE: Yesterday?

ET: Ya.

RE: How far away were you from Scott when you shot Scott?

ET: I was standing in the same place where I shot Suzie.

RE: Then you walked down the hall?

ET: Ya.

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RE: Tell me?

ET: I walked down the hall and I shot four rounds.

RE: Was you shooting your right hand or left hand?

ET: I had them in both hands. I had my .22 in my left hand and my .38 in my left, my right hand.

RE: Are you right handed or left handed?

ET: Right handed.

ES: You had your .22 in the left hand and your .38 in the right?

ET: Ya.

RE: After you shot him.....

ET: I felt terrible.

RE: ...what did you do then?

ET: I felt terrible.

RE: I understand that, but what did you do then? After you shot Chuck what did you do?

ET: I'm not sure. I laid down, I don't know what happened then. It was all a blur.

RE: What did you say to Debbie?

ET: I talked to her for about two or three hours.

RE: Where at?

ET: I don't know. I talked to her for several, I don't know.

ES: You say Scotty was still alive?

ET: Ya.

ES: What was Scotty doing?

ET: Laying there moaning.

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ES: How long?

ET: All day.

~~RE: Did Suzie have AIDS?~~

~~ET: I don't think so, I don't know, I don't know. I mean I could,  
I think I got it, I don't know if I got it or what, I don't,  
that's not important.~~

~~RE: What's that?~~

~~ET: That's not important.~~

RE: Okay. Where did you go after you left your house?

ET: Went to get some heroin.

RE: For who?

ET: Debbie.

RE: Why her?

ET: I don't know, I wanted to get some cocaine.

ES: For who?

ET: I don't know, from Tony or something like that, I don't know  
their names ..inaudible...

ES: Was that for you or for him? For you or for Debbie?

ET: I wanted the heroin for Debbie and the cocaine for me.

RE: How much money did you have on you?

ET: I didn't have any money.

ES: Who had money then?

ET: Debbie.

RE: Did Debbie know you was going to kill these people?

ET: No.

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RE: How long did you ride around with Debbie?

ET: Well, I'd say about an hour or two, I don't know how long.

ES: ...inaudible...drugs?

ET: No. I found a piece in Suzie's coat pocket, here, a piece of heroin.

~~RE: Is that Suzie's jacket?~~

~~ET: Ya.~~

ES: Whose idea was it to go get drugs?

ET: Debbie's?

RE: Why didn't you shoot Debbie there?

ET: I couldn't fucking handle it, I came to my senses. I don't know why....

ES: If you came to your senses, how come you didn't call somebody to help Scotty?

ET: I don't know. I don't know if I came to my senses or not.

ES: How old is Scotty?

ET: I think he's 15.

~~ES: How old's Suzie?~~

~~ET: I think she's 33.~~

RE: How old's Debbie?

ET: I think she's 37. I think Chuck's 44.

ES: Anything happy between you and Debbie?

ET: Ya.

ES: What happened?



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ET: Um, Debbie and Suzie would take turn sitting on my face and fucking me.

ES: When?

ET: Oh, a couple of times or I don't know.

RE: Last night?

ET: Ah, I don't know.

RE: Did you have ah, have sex with Debbie today?

ET: Ya.

RE: Where at?

ET: The front room, I mean on the hall.

RE: After you shot them?

ET: Ya.

RE: After you shot ~~Suzie~~, Scott and Chuck, you took Debbie in the hallway and did she submit to you or did you rape her?

ET: She submitted to me.

RE: What, how did it happen? What did you say to her?

ET: Well I had her wash her pussy out real good and I ate her out and then I fucked her.

ES: Did she say anything to you?

RE: Did she want it?

ET: Ya, I think so.

RE: What did she say?

ET: She said it was real enjoyable.

RE: When did she tell you that?

ET: Just after we did it.

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ES: Did you have your guns with you still?

ET: I laid them down on the floor.

ES: Did you have your guns with you when you made her clean herself?

ET: Ya.

ES: Where was sure when you told her to get up and clean herself?

ET: What's this?

ES: How did this come about? You Scott, you shot Chuck, how did you come to talk with Debbie? What did she do?

ET: What do you mean, what did she do.

ES: After you shot Chuck, what did she do? She was in bed with him, is that correct?

ET: Ya.

ES: So what does she do?

ET: Not much, she came up and we talked for a while.

RE: What did you talk about?

ET: How much I loved Suzie.

~~RE: Did she know that you just shot Suzie and Scott?~~

~~ET: Ya.~~

RE: Was she crying?

ET: No. She had a horrified look on her face. I think it's just from the heroin.

RE: After you brought her out of the bedroom, you talked for a while in the hallway?

ET: No, she sat down on the couch and we talked for about two or three hours.

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~~ES: On the couch next to Suzie?~~

~~ET: No on the other couch.~~

ES: What was Scott doing all this time?

ET: Moaning.

ES: So you talked for two or three hours and you had her get up and go to the bathroom?

ET: Ya.

ES: Did you go into the bathroom with her?

ET: No, I just stood out in the hall. I left the door open.

ES: Then what happened? Is that when you performed oral sex on her?

ET: Ya.

RE: What was she wearing?

ET: Ah, a yell, I mean a white terry cloth towel, or a terry cloth robe or whatever it is.

RE: Any panties?

ET: No.

RE: Bra?

ET: No.

ES: Was she wearing any clothes when she was in bed with Chuck?

ET: No.

RE: Why didn't you go back in your bedroom? Edgar? Why didn't you take Debbie back into her bedroom? Back into your bedroom?

ET: I don't know, I just, I didn't think Suzie was dead.

~~RE: Okay. Suzie was sleeping on the couch.~~

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~~ET: Ya.~~

~~RE: Scott's sleeping on the floor. How come Suzie's not sleeping in your bedroom with you?~~

~~ET: She wouldn't do it.~~

~~RE: She'd make love to you but she wouldn't sleep with you?~~

~~ET: No.~~

~~ES: Did you have intercourse with her that night?~~

~~ET: No.~~

~~ES: When was the last time you had intercourse with Suzie?~~

~~ET: Two or three days ago. Me and, me and Debbie and Suzie did, I ate Suzie's pussy and Debbie was sitting on my dick.~~

~~RE: Do you always have a threesome?~~

~~ET: Ya. Well most, a lot of times just Suzie. I like just Suzie the best.~~

~~RE: Why?~~

~~ET: Cause I love her.~~

~~ES: Do you tell her that?~~

~~ET: Every fucking day and night.~~

~~ES: What does she say?~~

~~ET: She didn't seem to say nothing?~~

~~ES: Did she laugh at you?~~

~~ET: I don't know what she did. She just....~~

~~ES: Did she laugh at you?~~

~~ET: No, I don't think she, I don't know if she did or what. She just....~~

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~~RE: What did she say tonight or today that made you angry enough  
to shoot her?~~

~~ET: I don't know.~~

~~RE: What did she do to make you angered, that angered you?~~

~~ET: I don't know, I have no idea, just.....~~

~~ES: What made you have sexual relations with her sister after you  
shot her?~~

~~ET: I don't know what that was. I guess I was just horny, I don't  
know.~~

RE: Shooting those people get you excited?

ET: No.

RE: Did you have an erection after you shot them?

ET: No.

ES: When did you get the erection?

ET: When I was eating ~~Suzie out~~, I mean Debbie out.

ES: Did you ever have a sexual relationship prior to police officer finding you?

ET: Huh?

ES: Did you have sex with her anymore prior to the police catching you? After you left your trailer?

ET: No.

ES: Where did you go?

ET: We went to score some dope.

RE: Who was driving?

ET: Debbie.

ES: What vehicle?

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ET: Chuck's truck, I mean Chuck's car.

RE: What kind of car is it?

ET: I don't know, it's an Oldsmobile I think or something like that.

RE: Is them the clothes you was wearing last night?

ET: Ya.

RE: And the same clothes you had on after you had sex with Debbie?

ET: Ya.

~~ES: What were you wearing when you shot Suzie?~~

~~ET: These clothes here.~~

~~ES: So you were fully dressed?~~

~~ET: Ya, except for this jacket here. This jacket here we, I mean, we picked it off, I mean it was on, all I had to do was, a jacket, two jackets, I picked this one here.~~

~~RE: Why did you pick that one?~~

~~ET: She got the other one, Debbie got the other one.~~

~~RE: Why didn't you grab your jacket? Why did you grab Debbie's? I mean Suzie's.~~

ET: ...inaudible...

RE: Okay.

ES: Did you get any dope? You said no right?

ET: Ya.

ES: Where all did you go?

ET: I don't know. ...inaudible...

ES: How many places did you go?

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ET: We just kept driving around and looking for the dope, I mean calling places. I couldn't get the phone numbers.

ES: What was Debbie saying?

ET: Huh?

ES: What was Debbie saying?

ET: Saying?

ES: What did she say? How did you guys decide to go ahead and go? Whose idea was that?

ET: Hers.

ES: She asked you to call medical?

ET: No, no.

ES: She asked you to call for help?

ET: No.

ES: Was Scotty still sitting there, laying there moaning?

ET: Ya.

ES: Was he moaning when you left?

ET: I think so.

ES: Which door did you go out of?

ET: That door.

ES: Did you leave it unlocked or did you lock it?

ET: I locked it I think.

ES: How does it lock?

ET: Just push the button in.

RE: Was the front door already locked?

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ET: Ya.

RE: What did Debbie say to you while you was riding around?

ET: Well she said that we could go back and get it on and....

RE: And what else?

ET: I don't know just.

RE: Edgar?

ET: Huh?

RE: I think it's time you start telling us the truth.

ET: That's the truth.

ES: Edgar?

ET: What.

ES: We think it's time you start telling us the truth. The whole truth. I think what you're saying is, is close, but I think there's some other things that you know that you're just not telling us.

RE: I think you're fantasizing about a few things here and what we'd like you to do is tell us exactly what happened. Truthfully.

ET: That's what happened.

~~RE: Why did you shoot Suzie?~~

~~ET: I loved her.~~

~~RE: What happened that you got so angered that you went into the back bedroom, got a gun, walked up to the foot of the couch, pulled the weapon up to your eye, took aim and shot her in the head?~~

~~ET: I didn't shoot her, I mean, I pulled it down like that, I just ...~~

~~RE: Show me again.~~



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ET: Like that.

RE: Stand up and show me, I can't....

ES: Stand up. Okay, I'm on the couch. Which hand did you have the gun that you shot Suzie with?

ET: This one here.

ES: That's your left hand, you had the .22?

ET: Ya.

ES: How many times did you squeeze the trigger?

ET: Once.

ES: What could you see?

ET: I wasn't sure.

RE: Is the .22 an automatic or a revolver?

ET: An automatic.

ES: ...inaudible....

ET: Huh?

ES: ...inaudible...is that from the stroke?

ET: Ya.

RE: Edgar, why did you shoot Suzie. If you loved her, you wouldn't have shot her. You've know her for ten years. You've talked to her before, you've been able to talk problems out before. What problem manifested itself tonight or today or last night that gave you the impulse to kill her?

ET: I don't know.

RE: Something had to turn you, what turned you?

ES: You say you were talking to her when you walked up and at the bottom of the couch. What was she saying to you?

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ET: She was telling me I was disgusting.

RE: Why?

ET: I don't know.

ES: Now tell us.

RE: I'm going to talk to Debbie and Debbie's going to tell us her side of the story, so I want you to tell ya, tell us your side before we talk to her.

ET: That is my side of the story.

RE; Did you get that sexually aroused by killing those people that you.....

ET: No.

ES: Then why after killing the woman you love, do you have intercourse with her sister?

ET: Cause I liked Debbie second. I love all women.

RE: Edgar, start telling the truth. There's something that snapped in that trailer house, last night or early this morning that made you kill Suzie.

ET: I don't know what happened.

RE: It wasn't the devil. You didn't hear voices. What happened?

ET: I don't know.

ES: When she said that you were disgusting, when did she say that?

ET: She said, she said I was disgusting.

ES: What was happening before that? She sat on the couch and yelled down the hall? Is that disgusting?

ET: No, she was laying there. She called me ...inaudible...

RE: She called you what?

ET: Tiede.

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ES: Is that a nickname?

ET: Ya.

ES: What did she say?

ET: She said you were disgusting.

ES: What had you done?

ET: Nothing.

ES: Was this when you had the guns in your hand or before?

ET: I had the guns in my hand.

ES: Okay, something had to have happened as you walked down the hall with two guns in your hand. Not one gun, two guns. Something had to got happened for you to come from your bedroom down the hall, two guns in your hand, point the gun at Debbie, at Suzie and take a shot.

ET: I don't know.

RE: After you shot Suzie, did you do anything else to her?

ET: No, I covered her up.

RE: With the blanket?

ET: Ya.

ES: What was she wearing?

ET: I don't know.

RE: Did she have any blankets on her?

ET: I think so, I don't know.

RE: Or did you just cover her head up?

ET: Her whole, her whole body.

RE: So she was laying on the couch with any covers on her when you shot her?

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ET: No, she was, she had covers down to her, down around here.  
RE: Down to her waist?  
ET: Ya.  
RE: Did she have her bra on?  
ET: I don't know.  
RE: Did she have clothing that covered her?  
ET: Ya.  
RE: Did she sit up when you shot her?  
ET: No.  
RE: She was laying down?  
ES: Edgar, did you ask her to come in the hall before you shot her?  
ET: No.  
ES: Had you asked her to come and sleep with you earlier?  
ET: Ya.  
ES: What did she say?  
ET: Just telling me I was disgusting.  
ES: How did this conversation begin. They're doing heroin, Debbie and Suzie are doing heroin, where are they doing their heroin?  
ET: Ah, sometimes my bathroom other times....  
ES: Where were they doing it this time?  
ET: I think they was using the bathroom over there because I, seven, seven fifteen, fourth north and 740 East, Apartment C.  
ES: They were doing heroin before they got to your house?  
RE: Who with?

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~~ET: I don't know.~~

~~RE: With him?~~

~~ET: I don't know.~~

~~RE: Is Debbie a prostitute, too?~~

~~ET: I think so.~~

~~ES: So you asked Suzie to sleep with you and she called you disgusting?~~

~~ET: Ya, I guess so.~~

~~ES: Well no, is it true or not?~~

~~ET: I thinks it is.~~

~~ES: Okay, I'm just telling you what you told me.~~

ET: Ya.

RE: Edgar?

ET: Huh?

RE: Why did you shoot them?

ET: I don't know.

RE: Why did you shoot Scotty and Chuck then?

ET: I don't know. I just, I don't know.

RE: Have we made any threats to you during this interview?

ET: No.

RE: Have we promised you anything?

ET: No.

RE: Are you making this statement on your own free will?

ET: Ya.

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RE: Is there anything else that you can tell us in your defense?  
Is there anything that you want to tell us to help us?

ET: I don't want to make any appeals and I want to be put to death  
by lethal injection.

RE: You know you're going to be charged with a capital homicide?

ET: I know.

RE: Why did you do it?

ET: I don't know.

RE: Are you under any influence of any other drugs or alcohol?

ET: Just toluene.

RE: How do you feel?

ET: Lousy.

RE: Okay, do you understand everything I've said?

ET: Sometimes.

RE: You've made a response to everything I've asked you, is that  
correct?

ET: I think so.

RE: Do you have anything else to say?

ET: I'll think of something in a while.

RE: Okay, we're going to conclude this interview, same date at  
3:00 PM.